subdivision of a state to levy or increase taxes. In *Missouri* vs. *Jenkins* (110 Sup. Ct. 1661 (1990)), the Supreme Court held that a federal court had the power to order an increase in state and local taxes. Specifically, the 5 to 4 majority ruled that a federal district court has ''abused its discretion'' by directly imposing a local property tax increase to finance implementation of a school desegregation plan for the Kansas City, Missouri school district. BUT, the court stated that ''[a] court order directing a local government body to levy its own taxes is plainly a judicial act within the power of a Federal court,'' and that the federal judiciary may also block enforcement of state law limitations on local tax efforts that interfere with the funding of constitutionally-based desegregation plans. This is an ''indirect'' tax. The dissenters in the *Jenkins* ruling criticized the direct versus indirect distinction as a ''convenient formalism.'' However, the decision EXPANDED SIGNIFICANTLY THE POWER OF THE FEDERAL COURTS!

Those who oppose attempts to curb this power claim that the Kansas City case is the only case where a federal judge, Russell Clarke, ordered a tax increase to finance the building of a magnet school system to make it more appealing. Similarly, judicial taxation took place two decades ago when federal Judge Leonard Sand forced the elected representatives of Yonkers, New York to raise taxes on their constituents in order to finance the construction of public housing in middle-class neighborhoods. In New Hampshire, the state Supreme Court decreed that local schools must be funded with a statewide tax in order to equalize spending per pupil across the school districts.

In the congressional district I represent, Judge Michael P. Mahoney, the federal magistrate judge overseeing a desegregation case in Rockford, Illinois, concluded that the school district had authority under Illinois' Tort Immunity Act to issue bonds without referendum and to levy taxes to fund the remedial programs. Pursuant to this finding, the school district issued bonds and levied taxes from 1991 through 1997 under the Tort Immunity Act. Although the Tort Fund is not subject to voter control and was originally intended to be used to pay damages to individuals in civil liability suits, the federal magistrate ordered its use. More recently, the federal magistrate again ordered each member of the school board under threat of contempt and jail to increase taxes. Following that threat in late 1997, the school board capitulated and approved the $25 million tort levy for that year. After the vote, School Board Member David Strommer said, ''It's a disgrace for an American public official to face this kind of pressure.'' Since 1989, the city of Rockford, with a population of 140,000 people, has paid $183 million to comply with the court orders. That is a lot of money for such a small population, and that's for schools alone.

All of these examples run counter to the intentions of the Founding Fathers. Our nation cannot allow its liberties to slip by the wayside. We have judges raising taxes. We have a regulatory body, the FCC, imposing a telephone tax. We have a Congress that doesn't believe this is a problem. Of these, it is Congress that is directly accountable to the people.

So, what I have done legislatively to address judicial taxation? During the last Congress, I was able to insert a provision into the Judicial Reform Act. The provision was straight forward and was designed to severely limit the imposition of judicially imposed taxation. It would have applied to any order or settlement that directly or indirectly required a State, or political subdivision of a State, to increase taxes.

My efforts to bar the federal judiciary from directly or indirectly raising taxes were defeated by a gutting amendment. However, in a sense we succeeded because this may have been one of the few times and possibly the only time in the history of our republic where the issue of Congress ceding taxing authority to the courts has ever been debated. Putting a halt to judicial taxation is NOT about desegregation, prison overcrowding, environmental law enforcement, housing, or what have you. It is all about abiding by the fundamental tenants of our Constitution.

This Congress, I am focusing on a two-pronged approach. It is not going to be easy, but given the options, I believe that we have very few alternatives. I have introduced a joint resolution to amend the Constitution which reads simply, ''Neither the Supreme court, nor any inferior court of the United States, nor the court of any State in its application of laws under this Constitution or any Federal law, shall have the power to instruct or order a State or political subdivision thereof, or an official of such State or political subdivision, to levy or increase taxes.''

The second approach, and this is very important, is through the states proposing a constitutional amendment. Currently, states cannot propose amendments to the Constitution without first the calling of a constitutional convention. However, there is a proposal—H.J. Res. 29—which was introduced by Virginia Representative TOM BLILEY that would allow for a mechanism by which the states could propose amendments to the Constitution without calling for a constitutional convention. I am a cosponsor of this resolution.

Right now, as I understand it, 15 states have passed either a Resolution or a Memorial calling upon Congress to send to the states for ratification of an amendment to the U.S. Constitution banning federal judges of inferior courts or the Supreme Court from having the power to levy or increase taxes. Those states include Alabama, Alaska, Arizona, Colorado, Delaware, Louisiana, Massachusetts, Michigan, Missouri, Nevada, New York, Oklahoma, South Dakota, Tennessee and Utah. As it stands, there are no teeth in those resolutions because there is no mechanism. H.J. Res. 29 would provide that mechanism. We should all be working to pass that amendment, as well.

Levying taxes should remain a prerogative of the legislative branch. Thus, I will continue my efforts to stop judicial taxation.

## HONORING THE 25TH ANNIVERSARY OF THE UNITED SENIOR CITIZENS CENTER OF SUNSET PARK

### HON. NYDIA M. VELÁZQUEZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 17, 1999*

Ms. VELÁZQUEZ. Mr. Speaker, I rise today in honor of the United Senior Center of Sunset Park as they celebrate 25 years of service to the elderly citizens throughout the Sunset Park area of Brooklyn. The organization provides fellowship and lends a helping hand whenever, wherever and to whomever it is needed.

First started in 1974, the center, then located at 56th and 6th Avenues, quickly became a vital part of the communities it served. As it grew, the need for their services was so great that they soon had to relocate to larger space at their current location of 53rd and 3rd Avenues where they have been for twenty years.

As the center expanded it began to address the diverse cultural needs of the communities they serve. They began by offering services in Spanish and, soon after that, added staff and programs in Chinese. These enhancements made the United Senior Center in Sunset Park more responsive and a more integral part of the rich cultural fabric of Brooklyn.

The diverse groups of seniors in Sunset Park can take advantage of the United Senior Centers many recreational programs, including tai-chi, bingo, arts and crafts, and swimming. Additionally, the center also offers important English as a Second Language courses to help individuals improve their day-to-day lives. There are citizenship programs, and nutrition-education seminars, as well as a variety of programs designed to assist seniors regarding senior's rights and entitlement benefits.

The dedicated staff and leadership of the United Senior Center of Sunset Park has done an exemplary job of helping seniors in our communities. Through their efforts they help an estimated 36,000 people a year.

I urge my colleagues to join me in congratulating the leaders and staff of the United Senior Center of Sunset Park on their 25th anniversary. The center is an integral part of our diverse culture in Brooklyn, and I wish them continued success for the next 25 years and beyond.

## BOND PRICE COMPETITION IMPROVEMENT ACT OF 1999

SPEECH OF

### HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Monday, June 14, 1999*

Mr. DINGELL. Mr. Speaker, as Ranking Member of the Committee on Commerce, as well as one of the original sponsors and a Floor-Manager of H.R. 1400, the Bond Price Competition Improvement Act of 1999, I rise to clarify a matter involving the legislative history of this legislation. My remarks are an extension of remarks that I made during House consideration of H.R. 1400 (June 14, 1999, CONGRESSIONAL RECORD at H4137).

Prior to floor consideration of H.R. 1400, both the bill and the committee report had been processed on a fully cooperative, bipartisan basis that respected the rights of the majority and minority members of the Commerce Committee. For that, I commend the gentleman from Virginia (Mr. BLILEY), distinguished chairman of the Committee on Commerce.

During House consideration of H.R. 1400 on Monday of this week (June 14, 1999, CONGRESSIONAL RECORD at H4132–4137, 4139–4140), I became aware of the intention of the Majority to insert in the RECORD as an extension of Chairman BLILEY's remarks ''legislative history'' submitted by the Bond Market Association (BMA).

When I questioned proceeding in this manner, I was assured by Mr. BLILEY that the material was ''not a part of the legislative history at the moment'' and that the minority would be given an opportunity to peruse and approve the BMA remarks before they became legislative history (June 14, 1999, CONGRESSIONAL RECORD at H4136). However, I was informed by the gentleman from Virginia in a subsequent phone call that he had misspoken: the material had been inserted in the RECORD without the Minority's review and approval.

I have the following comments on that material which is printed on pages H4134–4135 of the CONGRESSIONAL RECORD for June 14, 1999, immediately following the statement that Chairman BLILEY actually delivered to the House:

The Bond Market Association's representatives, who played a constructive role in the development of the legislation, have explained that they wanted to address several concerns raised by their lawyers with the Committee report. They felt that it was inaccurate and painted too bleak a picture of the state of bond market transparency. I have no particular quarrel with their goal. I have a large quarrel, as I stated on June 14, with the process. Furthermore, the BMA document itself contains inaccurate statements.

Because the Majority did not include in the main body of the Committee report the findings of the SEC's review of price transparency in the markets for debt securities in the U.S., I included a summary thereof in my additional views (House Report No. 106–149 at 12). BMA admits that my summary is correct. The BMA summary that appears in the RECORD, however, is not correct (H 4134, carry-over paragraph, top 2nd column). For example, contrary to the BMA document's assertion, the entire U.S. Treasury market was not found to be ''highly transparent.'' The markets for ''benchmark'' U.S. Treasury bonds were found to be ''highly transparent,'' while other Treasury and Federal agency bonds were found to provide a ''very good'' level of pricing information. While the differences that give rise to a ''highly transparent'' versus a ''very good'' rating may escape the untrained and uninitiated, the BMA document's failure to accurately reflect the SEC's conclusions begs the question whether this was sloppy draftsmanship or a deliberate attempt to mislead. The text of the SEC report's summary of findings appears at the end of these remarks. The entire report is printed in the September 29, 1998 hearing record, Serial No. 105–130, at pages 7–18.

The March 1998 Treasury-SEC-Federal Reserve Joint Study of The Regulatory System For Government Securities did report on private sector efforts to improve the timely public dissemination and availability of information concerning government securities transactions and quotes. Its conclusion at page 18 was that ''[t]here have been significant advances in transparency for government securities transactions over the past several years, primarily originating from commercial vendors'' (H4134, paragraph 1, 2nd column).

Contrary to the impression given by the BMA's document, Nasdaq's Fixed income Pricing System (FIPS) has done little to make the high yield market more transparent. Specifically, FIPS does not make public any actual transaction reports for high yield bonds, although it is true that such transactions are reported to the NASD, mostly at the end of the day. FIPS publishes quotations, which are generally considered too inaccurate to be useful, for just 50 selected bonds, and also publishes transaction summaries giving the high price, low price, and aggregate volume for all registered high yield bonds (H4134, bottom 2nd column, top 3rd column).

The BMA document notes testimony claiming vast differences in the level of price transparency between liquid and illiquid equities. However, NASD Bulletin Board stocks are subject to real time last sale reporting, as are many listed equities and listed options which are, in fact, highly illiquid (H4134, paragraph 1, 3rd column).

There are nothing like 300,000 to 400,000 corporate bonds, as that term is commonly understood. The SEC has advised us that there are approximately 30,000 to 40,000. The estimate of 300,000 to 400,000 in the BMA document probably includes mortgage-backed securities guaranteed by GNMA which are issued by private corporations but are ''exempt'' securities and not ordinarily understood to be corporate bonds. The BMA document gives a completely wrong impression of the characteristics of the market (H4134, paragraph 2, 3rd column).

The close relationship that exists among some corporate bonds (but which falls well short of the ''fungibility'' claimed by the BMA document) is one of the reasons that transaction reporting can be valuable, since the price of one bond may be important information about the value of many others (H4135, carry-over paragraph, top 1st column).

The BMA document is correct that the Finance Subcommittee did hear testimony expressing the concerns of some market participants about possible liquidity effects of the immediate disclosure of price and volume information for some transactions. However, SEC Chairman Levitt specifically testified at the Finance Subcommittee's March 18, 1999, hearing on this bill that he did not believe that transparency harmed liquidity.

''Mr. OXLEY. Do you support giving investors bond prices at real time? There's some argument that doing so may affect liquidity.'' ''Mr. LEVITT. I think that transparency is good for liquidity. I reject the notion that it is bad for liquidity. I think a market that is open, transparent, available to anyone who wants to access that market is a market that throughout the history of markets has attracted the greatest amount of interest. I believe that, while real time is a goal, it's certainly one that is realizable, and I am supportive of moving in that direction.'' (Serial No. 106–8 at 12).

However, the Commission has been sensitive to similar concerns in other contexts and can be relied on to reach an appropriate balance between liquidity concerns and the value of transparency. This was the conclusion of the Committee in its unanimous decision to give the SEC this responsibility. I believe it is echoed in the resounding 333–1 vote of the House in favor of passing H.R. 1400 (H4135, 1st paragraph, 1st column).

The BMA document's partial quotation, ''the Commission shall take into consideration . . . private sector systems for the collection and distribution of transaction information on corporate debt securities,'' omits the significant phrase ''among other things.'' I strongly support private sector initiatives and solutions, where appropriate and effective. I believe that the purpose of this phrase in H.R. 1400 is to give the Commission flexibility to assure the effectiveness of transaction reporting by looking at and to the entire landscape, both private and government. It is not a mandate that there be competition beyond that already required under section 11A of the Exchange Act which requires actions that ''foster efficiency, enhance competition, increase the information available to brokers, dealers, and investors, facilitate the offsetting of investors' orders, and contribute to best execution of such orders'' (H4135, 2nd paragraph, 1st column).

I. SUMMARY OF FINDINGS

Overall we believe the debt markets are functioning well. Of the market segments we reviewed, U.S. Treasury securities and other Federal Agency bonds are the most actively traded and are also the most transparent and efficient. We found no evidence in those markets that dealers have a substantial advantage compared to institutional clients in terms of market knowledge. Other market segments function effectively as well, though some are distinctly less transparent and efficient than the government securities markets. Specifically, we found that:

The markets for ''benchmark'' U.S. Treasury bonds are highly transparent. Bids, offers and trade prices from the interdealer market are widely available through interdealer broker (''IDB'') screens, GovPX, Bloomberg and other vendors.

Other Treasury and Federal Agency bonds, which trade in a relatively stable relationship to benchmark Treasuries, are ordinarily traded in terms of a basis point spread from the Treasury yield curve set by the benchmark bonds. Quotes in frequently traded securities are widely available, although the spreads are not as narrow as those for benchmark Treasuries. GovPX and others produce ''valuations'' on a real time basis for securities that do not have current dealer quotes. The combination of real time data for benchmark Treasuries and supplementary quotes and other information for the other securities appears to provide a very good level of pricing information for all government bonds.

Mortgage Backed Securities (''MBS'', and other structured products such as Collateralized Mortgage Obligations (''CMOs'') and Asset Backed Securities (''ABS'') are primarily high credit quality securities with complex structures. Values are largely determined by a) the Treasury yield

curve, b) the structure of the particular instrument, and c) the relationship of similar instruments to the Treasury yield curve. The relationship to Treasuries is established by markets in generic forward contracts called TBAs (''to be announced'') for which current dealer quotes are available from IDBs, Bloomberg and other vendors. Relatively sophisticated analytical tools to value MBS, CMOs, and ABS are available from Bloomberg, Bridge and other vendors. Dealers and some institutional investors have in-house analytical models as well. At least two services make such tools available over the Internet. Overall, the quality of pricing information and interpretive tools available to the market is good.

High yield corporate bonds generally do not have a stable relationship to Treasuries. Therefore, the transparency of the Treasury market does not imply known values for high yield bonds. Interdealer trading is facilitated by IDBs, but prices are not shown on screens. Dealer indicated prices for selected securities generally are transmitted to customers each day by fax and/or e-mail. Overall, the quality of pricing information available in the market for high yield corporate bonds is relatively poor, although dealers do not appear to enjoy a great advantage over their institutional clients.

Investment grade corporate bonds fall between high yield corporates and government bonds both in credit quality and in terms of the quality of pricing information available. They are generally traded in terms of a spread from Treasuries but the relationship is less stable than for non-benchmark Treasuries and Federal Agency bonds. As with high yield corporates, interdealer trading is facilitated by IDBs but prices are not shown on IDB screens. ''Investment grade'' covers a spectrum of quality and the sensitivity of a bond's price to company or industry specific development tends to increase with lower credit quality. Similarly, the quality of pricing information available for investment grade bonds may be described as ranging from fairly good to fair.

Convertible bonds are not ordinarily traded in fixed income departments. Their close relationship to equity is demonstrated by the fact that both buy and sell side firms typically trade convertible securities (including convertible preferred) in their equity trading departments.

Municipal bonds also do not trade in a close relationship to Treasuries although Treasury prices are certainly very important. The municipal market has become somewhat more commoditized in recent years with more new issues carrying credit insurance. However, this market is highly fragmented—and is characterized by an extremely large number of issues and issuers with a relatively small trading volume, and is highly regionalized. This is a market in which there are few real prices in comparison to the number of different securities. As a result, many securities are difficult to value either for portfolio valuation or trading. All market participants are impacted, but unlike other market segments, retail investors represent an important part of the municipal market (roughly 30% of holdings). The nature of the municipal market is such that price discovery is necessarily difficult, but the MSRB's transparency efforts will improve the distribution of prices, and will also provide the tools that the NASD requires to assure that the municipal market is fair.

Dollar denominated foreign sovereign debt securities, particularly from emerging markets, also do not trade in a close relationship to Treasuries. There are approximately 10 major dealers in this market. Brady bonds, which were largely responsible for the development of this market, now account for less than half of its trading volume and are declining steadily in significance. Interdealer trading is facilitated by IDBs and real time quotes and transaction prices for many of these securities are provided by EDB screens to the dealer community, but are not generally available outside that group. End-of-day prices are readily available.

Electronic trading of bonds is rapidly becoming a reality, though its ultimate impact is far from clear. There are several single dealer systems in operation, most of them accessible through Bloomberg terminals, offering some form of electronic trading of Treasury securities. Some also offer Federal Agency securities and at least one offers municipal and mortgage backed securities as well. One multi-dealer system, Trade Web, is currently in operation with five sponsoring dealers. Bloomberg, which provides access to several single dealer systems, is preparing to offer a more integrated facility providing access to the quotes of all participating dealers on a single screen. Several other electronic bond trading systems are known to be under development. including at least one that will focus on high yield corporate bonds. A recent survey by the Bond Market Association. (''TBMA'') shows that there is a consensus in the industry that electronic execution in some form will be common within a few years.

## REMEMBERING RABBI SENDER DEUTSCH, A'H

### HON. JERROLD NADLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 17, 1999*

Mr. NADLER. Mr. Speaker, I rise to honor the memory of Rabbi Sender Deutsch, a'h, who served, for the past four decades, as the editor and publisher of the influential Yiddish Language newspaper Der Yid, and as Vice President of the Satmar community. Reb Sender Deutsch, as he was affectionately known, was a survivor of the Holocaust and was the right hand of the previous Grand Rebbe of Satmar, Rabbi Joel Teitelbaum, z'tl, and the present Grand Rebbe, Rabbi Moses Teitelbaum, Shlita.

Reb Sender, who was 76, and who passed away on September 2, 1998, was laid to rest in the community of Kiryas Yoel, in Monroe, N.Y. He is survived by his wife, three sons, three daughters, grandchildren and great grandchildren. He will be remembered as a compassionate man, a great scholar, and an orator of exceptional skill.

As the Editor of Der Yid, Reb Sender was often considered the voice of the Satmar community, and an influential voice in the Chassidic community at large. He was the main speaker at almost all functions organized by the Satmar community worldwide, and on many occasions he traveled the world as an emissary of the Grand Rebbe and the community. He was the author of a three volume history in Yiddish of the Second World War and the tragic fate of world Jewry during that period. He also served as the vice president of the Satmar Jewish school system, United Talmudical Academy and Beth Rachel School with an enrollment of over 18,000 students, the largest Jewish school system in the United States and worldwide.

Mr. Speaker, my neighbors in Brooklyn join with the many thousands of people around the world whose lives were touched and benefitted by the life and work of Reb Sender Deutsch, in honoring his memory and his life of extraordinary accomplishment and dedication to learning. It is an example which I believe all Americans will find inspiring and beneficial.

## FREEDOM TO CHOOSE A UNION

### HON. BOB SCHAFFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 17, 1999*

Mr. SCHAFFER. Mr. Speaker, in America, no citizen should be forced to join an organization and pay dues against their will. Amazingly, Federal law actually grants private labor unions the authority to speak and act on behalf of otherwise free Americans with respect to their jobs, their wages, the terms of their employment and their choices at the ballot box. The law also empowers unions to make political decisions and even cash political contributions to various political causes regardless of whether the worker consents.

The Colorado General Assembly has urged this Congress to repeal these unfair federal laws. A resolution sponsored by State Representative Mark Paschell, and State Senator Jim Congrove has passed both Houses of the State Legislature and as such constitutes my State's official policy on this important matter.

Mr. Speaker, I commend Representative Paschell, and Senator Congrove for their bold leadership and urge my colleagues to follow the suggestions contained in Colorado's House Joint Resolution 99–1032 which I hereby submit for the RECORD.

HOUSE JOINT RESOLUTION 99–1032

Whereas, The ''National Labor Relations Act'', 29 U.S.C. sec. 159(a), grants certified labor organizations the authority to represent and contractually bind all employees in a bargaining unit, including those employees who prefer not to join, financially support, or be represented by a labor organization; and

Whereas, Some union officials consider this federally granted ''exclusive representation'' an unfair arrangement under state legislation that bans the mandatory collection of a service or other such fee from nonunion employees; and

Whereas, The General Assembly of the state of Colorado agrees that bargaining agreements negotiated by a labor organization should cover or bind only those employees who join or financially support such labor organizations; and

Whereas, The General Assembly believes that employees who choose not to join or financially support a labor organization should not be bound by the provisions of such labor organization's collective bargaining agreement, nor should they be required to accept such labor organization as their bargaining representative; now, therefore, be it

*Resolved by the House of Representatives of the Sixty-second General Assembly of the State of Colorado, the Senate concurring herein*: